REMARKS

Claims 1-29 are pending.

Claims 9 and 17 have been amended.

Claims 1-29 were rejected.

Reconsideration of the claims 1-29 is requested for the reasons explained below.

Claim Rejections – 35 USC 102

Claims 1-4, 7-25 and 28-29 were rejected under 35 USC 102(e) as being anticipated by Shaffer et al. (US 6,411,601).

Independent claims 1, 3, 7, 15, 24, and 28 will be discussed first. After the discussion of the independent claims, the dependent claims included in the above rejection, that is, dependent claims 2, 8-14, 16-23, 25, and 29 will be discussed.

The applicant's invention relates to a method and system whereby a threshold load level is established for a gateway and call are refused when this threshold is exceeded .

Claim 1 recites in part :

"..... receiving ..... a CPU utilization threshold:,

.... setting a call deny flag when the present CPU utilization value is larger than the CPU utilization threshold; and

.... detecting an incoming call and indicating refusal of the incoming call to the incoming call caller without answering the incoming call when the deny flag is set".

As indicated above, the claim specifies that incoming calls are refused when the CPU utilization is above the threshold value.

The Shaffer reference discloses a system that determines whether the required level of any resource specified in a call request is above the corresponding availability level for the network resource. If the required level of any resource is above the corresponding availability, the call is placed in a queue.

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The examiner makes reference to the resource reservation mechanism 46 shown in the Shaffer reference. As indicated at column 5, lines 66 et. seq. of Shaffer,

> "resource reservation mechanism 46 communicates with the resource availability monitor 42 to determine which network resources are below the requested levels. The resource reservation mechanism 46 then requests reservation of the network resources. Referring to FIGS. 1, 2 and 3, in a preferred embodiment, the resource reservation mechanism 46 manages several network resource queues, including a network bandwidth queue 50, a conferencing DSP resources queue 52, a first trunk line queue 54, and a first remote computer access queue 56. The set of queues shown in FIG. 3 is illustrative and is not a complete set of all possible queues. The queues shown are for those network resources which are unavailable at the levels specified in a conferencing call request L 60. Call request L is placed into the queues for the various network resources and is advanced as the call requests ahead in the queues are either executed or returned to the end of the queue".

At page 3 of the office action, the examiner states:

> "a resource reservation mechanism 46 (deny flag/indicating refusal/call refusing software/refusing to accept or answer)"

Applicant respectfully requests explanation of the above comment by the examiner. In so far as the applicant can determine, there is no mention of a "deny flag" in the Shaffer reference.

The difference between the system shown in Shaffer and what applicant claims involves the fact that as recited in applicant's claim, a threshold is established and calls are refused if this utilization threshold is exceeded. The Shaffer reference does not mention establishing a threshold. Furthermore, the Shaffer reference does not refuse incoming calls as specified in applicants claim. Reconsideration and allowance of claim 1 is therefore respectfully requested.

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Applicant's claim 3 recites in part:

"setting a ……… threshold ..

comparing a … utilization value ….. (to the) threshold; and

…..refusal of ….. incoming telephone call to a caller ….. when the present

CPU utilization value is larger than the threshold".

The difference between the system shown in Shaffer and what applicant claims in claim 3, again involves the fact that as recited in applicant's claim 3, a threshold is established and calls are refused if this utilization threshold is exceeded.   The Shaffer reference does not mention establishing a threshold. Furthermore, the Shaffer reference does not refuse incoming calls as specified in applicants claim. Reconsideration and allowance of claim 3 is therefore respectfully requested.

Applicant's claim 7 recites in part:

"a CPU utilization threshold …..

gauging ……….(if) the present CPU utilization value input is larger than

……….. a CPU utilization threshold …..

call refusing software ……………to refuse the incoming call if the deny flag is set ".

The difference between the system shown in Shaffer and what applicant claims in claim 7, again involves the fact that as recited in applicant's claim 7, a threshold is established and calls are refused if this utilization threshold is exceeded.   The Shaffer reference does not mention establishing a threshold. Furthermore, the Shaffer reference does not refuse incoming calls as specified in applicants claim. Reconsideration and allowance of claim 7 is therefore respectfully requested.

Applicant's claims 15, 24 and 28 have limitations similar to those discussed above relative to claim 1, 3 and 7 and these claim distinguish from the Shaffer reference for the same reasons as discussed above relative to claim 1, 3 and 7. Allowance of claims 15, 24 and 28 is therefore respectfully requested for the same reasons as discussed above relative to claims 1, 3 and 7.

Dependent claims 2, 8-14, 16-23, 25 contain the same litigation as their parent claims that were discussed above. Therefore allowance of dependent claims 2, 8-

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14, 16-23, 25 is respectfully requested for the same reasons as discussed above relative to their parent claims.

It is noted that dependent claims 9 and 17 have been amended to eliminate the "70 percent" imitation and to change that limitation to a "pre-specified percent".

Claim Rejections – 35 USC 103:

Claims 5, 6, 26 and 27 were rejected under 35 USC 103(a) as being unpatentable over Shaffer et al. in view of Kung et al. (US 6,570,855).

It is noted that claims 5, 6, 26 and 27 are dependent claims. These claims therefore contain all of the limitations of their parent claims.

As discussed above, the Shaffer reference shows a system that determines whether the required level of any resource specified in a call request is above the corresponding availability level for the network resource. If the required level of any resource is above the corresponding availability, the call is placed in a queue.

The Kung reference describes a system that is designed to balance the load on a number of units. As indicated at column 2 lines 25 et. seq., the system shown in the Kung reference:

> "the load of any of the above embodiments is ameliorated by either notifying a network that future calls are to be directed to a second call manager, or transferring at least one pending call from the first call manager to a second call manager"

There is no mention in the Kung reference of establishing a threshold as is recited in the parent claim of each of the dependent claims that are the subject of this rejection. Furthermore, as indicated in the above quotation from this reference, there is no mention of refusing calls when a threshold is exceeded.
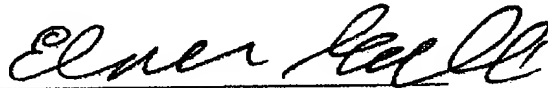
For the above reasons reconsideration and allowance of dependent claims 5, 6, 26 and 27 is respectfully requested.

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CONCLUSION

For the foregoing reasons, reconsideration and allowance of claims 1-29 of the application as amended is respectfully requested.

The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

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